

UNITED STATES DISTRICT COURT  
WESTERN DIVISION OF NORTH CAROLINA  
3:12-CV-451-GCM

Regina Boston; )  
Plaintiff )  
 )  
-v- )  
 )  
OCWEN LOAN SERVICING, LLC. )  
ET AL. )  
Defendants )  
 )

**FILED**  
CHARLOTTE, NC

SEP 18 2012

U.S. DISTRICT COURT  
WESTERN DISTRICT OF NC

**PLAINTIFF'S AFFIDAVIT FOR LEAVE TO FILE SECOND AMENDED COMPLAINT**

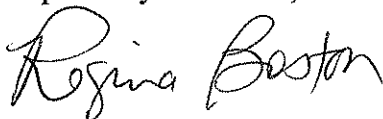
**NOTICE TO PRINCIPAL IS NOTICE TO AGENT**  
**NOTICE TO AGENT IS NOTICE TO PRINCIPAL**

COMES NOW the Plaintiff and requests that the Court grant leave, thereby permitting Plaintiff to file a Second Amended Complaint in order to add two additional Defendants.

1. Plaintiffs filed her Affidavit in this Court on July 23, 2012. Defendant's original answer was due on August 14, 2012.
2. Defendants filed a Motion for an Extension of time on August 14. The Court granted to Defendants until September 5 to file an answer.
3. On August 13, 2012, Plaintiff filed an Amended Complaint adding more causes of action. Defendants had not answered the original Affidavit.
4. Plaintiff filed a Second Amended Affidavit on August 21 without leave of court or consent from the Defendant. Plaintiff added two other Plaintiffs; one of which being the Counsel for Defendants' law firm.
5. On August 31, Defendants filed a Motion to Dismiss Plaintiff's Second Amended Affidavit.
6. On September 13, the court dismissed the Plaintiff's Second Amended Affidavit.

Dated: September 18, 2012

Respectfully submitted,



Regina Boston  
1220 Ballina Way  
Charlotte, NC 28214

**MEMORANDUM IN SUPPORT TO GRANT PLAINTIFF'S MOTION TO AMEND  
SECOND COMPLAINT**

“Under Rule 15(a)...leave to amend a complaint ‘shall be freely given when justice so requires.’” *Franks v. Ross*, 313 F. 3d 184, a92 (4<sup>th</sup> Cir. 2002) (quoting Fed. R. Civ. P. 15(a)). The Supreme Court has declared that “‘this mandate is to be heeded.’”

*Foman v. Davis*, 371 U.S. 178, 182 (1956). “The law is well settled ‘that leave to amend a pleading should be denied *only* when the amendment would be prejudicial to the opposing party, there has been bad faith on the part of the moving party or the amendment would be futile.’” *Edwards v. City of Goldsboro*, 178 F.3d 231, 242 (4<sup>th</sup> Cir. 1999) (quoting *Johnson v. Oroweat Foods Co.*, 785 F.2d 503, 509 (4<sup>th</sup> Cir. 1986) (emphasis in original)).

Here, justice requires that Plaintiff be given the opportunity to amend her complaint.

*Shipner v. Eastern Airlines, Inc.*, 868 F.2d 401, 406 (11<sup>th</sup> Cir. 1999). The Eleventh Circuit noted the following with respect to Rule 15(a): The decision whether to grant leave to amend is committed to the sound discretion of the trial court. *Best Canvas Products & Supplies, Inc. v. Ploof Truck Lines, Inc.*, 713 F.2d 618 (11<sup>th</sup> Cir. 1993). However, “[d]iscretion’ may be a misleading term, for rule 15(a) severely restricts the judge’s freedom, directing that leave to amend “‘shall be freely given when justice so requires.’” *Dussouy v. Gulf Coast Investment Corp.*, 660 F.2d 594, 597 (5<sup>th</sup> Cir. 1991).

This policy of Rule 15(a) in liberally permitting amendments to facilitate determination of claims on the merits circumscribes the exercise of the trial court’s discretion; thus, “[u]nless there is a substantial reason to deny leave to amend, the discretion of the district court is not broad enough to permit denial.” *Id.* at 598. *Espey v. Wainwright*, 734 F.2d 748, 750 (11<sup>th</sup> Cir. 1994).

“District Courts have only limited discretion to deny a party leave to amend the pleading. Thus, the court is constrained to allow a plaintiff leave to amend unless there are substantial

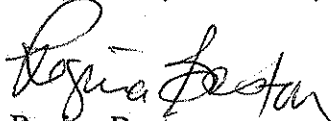
contravailing reasons." *Grayson v. Kmart Corp.*, 79 F.3d 1096, 1110 (11th Cir. 1996) (citing *Espey*, 734 F.2d at 748 and *Dussouy*, 660 F.2d at 594). In determining whether to grant leave to amend, the court may consider undue delay, bad faith or dilatory motive, repeated failure to cure deficiencies by amendments previously allowed, undue prejudice to the opposing party, and the futility of the amendment. *Id.*

In the case *sub judice*, there are no reasons to deny Plaintiff's Motion for Leave to Amend the Complaint. This case was filed on July 23, 2012. There has been no undue delay in amending the Complaint. The Defendant has not filed an Answer.

WHEREFORE, for the aforementioned reasons, the Court should grant Affiant leave to file the proposed Second Amended Complaint.

Dated: September 18, 2012

Respectfully submitted,

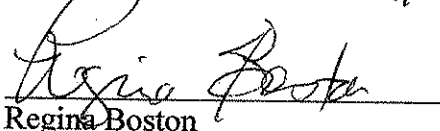



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1220 Ballina Way  
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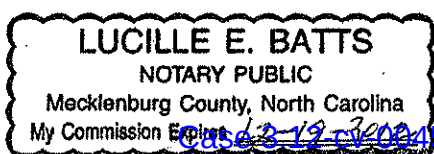
Notary Public

On the date set out below, the foregoing MEMORANDUM IN SUPPORT TO GRANT PLAINTIFF'S MOTION TO AMEND SECOND COMPLAINT was sworn and signed in my presence by Regina Boston, known to me.

My commission expires: 12/19/2012

  
Regina Boston  
Notary Public SEAL:

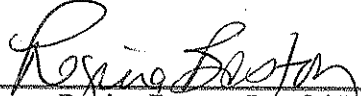
September 18, 2012  
Date



**Certificate of Service**

I, Regina Boston do hereby certify that I have served the parties with a copy of **PLAINTIFF'S AFFIDAVIT FOR LEAVE TO FILE SECOND AMENDED COMPLAINT** and **MEMORANDUM IN SUPPORT TO GRANT PLAINTIFF'S MOTION TO AMEND SECOND COMPLAINT** by USPS Mail on the 18<sup>th</sup> of September 2012, at the following address:

Hunoval Law Firm PLLC.  
Attn: Christina Hunoval  
501 Minuet Lane, Ste. 104A  
Charlotte, North Carolina 28217

  
\_\_\_\_\_  
Regina Boston, Lawful Woman,  
1220 Ballina Way  
Charlotte, North Carolina [28214]